

## 70A Am. Jur. 2d Social Security and Medicare § 122

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### Social Security and Medicare

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#### Part One. Social Security and SSI Benefits

##### II. Coverage of Employers and Employees

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###### (1) Overview

###### (a) In General

## § 122. Exceptions to rule of noncoverage

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### West's Key Number Digest

West's Key Number Digest, Social Security and Public Welfare  125.1, 128.1, 131

The Social Security Act<sup>1</sup> and the Internal Revenue Code<sup>2</sup> specify several exceptions to the general exclusion of state and local employment from social security coverage. Thus, service rendered by a person as an employee of a state or local government is not excluded from covered employment if:

- (1) the service was in the employ of a state,<sup>3</sup> a political subdivision of a state, or any wholly owned instrumentality of one or more states or political subdivisions, the person was not a member of the retirement system of the state, political subdivision, or instrumentality,<sup>4</sup> and the service was performed after July 1, 1991;<sup>5</sup>
- (2) the service was covered by an agreement that was entered into by the state and the Social Security Administration, pursuant to the Social Security Act,<sup>6</sup> to extend social security coverage to groups of employees of the state and its political subdivisions;<sup>7</sup>
- (3) the service constitutes a covered transportation service;<sup>8</sup>

(4) the service was performed in the employ of the District of Columbia or any instrumentality wholly owned by the District of Columbia, and was not covered by a retirement system established by a law of the United States,<sup>9</sup> or

(5) the service was performed, under the proper circumstances, in the employ of the government of American Samoa,<sup>10</sup> or the government of Guam,<sup>11</sup> a political subdivision of American Samoa or Guam, or any instrumentality wholly owned by one or more of these entities.<sup>12</sup>

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Footnotes

1                   42 U.S.C.A. § 410(a)(7).

2                   26 U.S.C.A. § 3121(b)(7).

3                   20 C.F.R. § 404.1020(a)(3) (not including the District of Columbia, Guam, the Northern Mariana Islands, or American Samoa).

4                   42 U.S.C.A. § 410(a)(7)(F); 26 U.S.C.A. § 3121(b)(7)(F).

5                   20 C.F.R. § 404.1020(a)(3).

As to mandatory coverage of service rendered by a state or local employee, see §§ 142, 143.

6                   42 U.S.C.A. § 418.

7                   42 U.S.C.A. § 410(a)(7)(A); 26 U.S.C.A. § 3121(b)(7)(E).

As to the election of social security coverage by a state, see §§ 164 to 171.

8                   42 U.S.C.A. § 410(a)(7)(B); 26 U.S.C.A. § 3121(b)(7)(A).

As to covered transportation services, see §§ 123, 124.

9                   42 U.S.C.A. § 410(a)(7)(D); 26 U.S.C.A. § 3121(b)(7)(C).

As to the coverage of District of Columbia employees, see § 125.

10                  42 U.S.C.A. § 410(a)(7)(C); 26 U.S.C.A. § 3121(b)(7)(B).

11                  42 U.S.C.A. § 410(a)(7)(C), (E); 26 U.S.C.A. § 3121(b)(7)(B), (D).

12                  As to the coverage of government employees of American Samoa, Guam, and the Northern Mariana Islands, see § 126.

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